

**JAN 12 2006**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MIGUEL ANGEL MURILLO NOGUEZ;  
et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74801

Agency Nos. A95-588-670  
A95-588-671

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 9, 2006<sup>\*\*</sup>

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Miguel Angel Murillo Noguez and Lourdes Pineda, husband and wife, and  
natives and citizens of Mexico, petition for review of the decision of the Board of

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<sup>\*</sup> This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-  
3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Appeals (“BIA”), summarily affirming the Immigration Judge’s decision that petitioners were ineligible for cancellation of removal because they did not meet the “exceptional and extremely unusual hardship” requirement of 8 U.S.C. § 1229b(b)(1)(D). We have jurisdiction pursuant to 8 U.S.C. § 1252 to review questions of law, and we deny the petition for review.

We reach the merits of petitioners’ statutory construction claim because they were not required to exhaust this claim under 8 U.S.C. § 1252(d)(1). *See Sun v. Ashcroft*, 370 F.3d 932, 942 (9th Cir. 2004) (where issues are “entirely foreclosed by prior BIA case law,” petitioners need not raise them before the BIA). Petitioners’ statutory construction claim fails because the BIA’s interpretation of the hardship requirement “comports with the statutory language and congressional intent.” *Ramirez-Perez v. Ashcroft*, 336 F.3d 1001, 1006 (9th Cir. 2003).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741, 750 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED.**